

No. PD-0366-17

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF TEXAS

FILED
COURT OF CRIMINAL APPEALS
12/21/2017
DEANA WILLIAMSON, CLERK

SAMUEL UKWUACHU, Appellant

v.

THE STATE OF TEXAS, Appellee

Appeal from McLennan County

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**STATE'S MOTION FOR CLARIFICATION
ON ORAL ARGUMENT**

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TO THE HONORABLE COURT OF CRIMINAL APPEALS:

This Court has granted oral argument in this case, which involves the admissibility *vel non* of evidence under Texas Rule of Evidence 412, “Evidence of Previous Sexual Conduct in Criminal Cases.” The relevant record was sealed by the trial court pursuant to Rule 412(d), and the briefing at both levels of this appeal has been sealed. Oral argument would be virtually useless without discussion of the sealed record. It would thus be inappropriate for oral argument to be conducted as usual, *i.e.*, in a forum open to the general public. This raises a number of concerns that require clarification.

If the hearing is closed to the general public, who may attend? The victim, her family, and even close friends? The rule is intended to protect her privacy, and many of them are already familiar with the facts and/or testified at trial. What about the other attorneys who represented the parties throughout this process? They are familiar with the facts, as well. The Court should address these basic concerns and any other alteration(s) to regular procedure that it deems necessary or conducive to proper presentation of the issues.

PRAYER FOR RELIEF

WHEREFORE, the State of Texas prays that the Court of Criminal Appeals grant its motion to clarify the procedures for this “sealed” oral argument, including

identifying the persons permitted to attend, and to grant any other relief deemed appropriate.

Respectfully submitted,

/s/ John R. Messinger
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 21st day of December, 2017, the State's Motion for Clarification on Oral Argument has been electronically served on the following:

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